

Application No.: 10/809,470
Docket No.: AD7006 US NA

JUN 13 2007

Page 6

REMARKS

As a preliminary matter, the Applicants gratefully acknowledge the confirmation from the Examiner that the Office Action having a mail date of March 16, 2007 (hereinafter the "Office Action") has been entered into the record as a **non-final Office Action**. Confusion regarding the status of the Office Action arose because the Office Action Summary indicated that the Office Action is a non-final Office Action and claims 1-13 and 30-33 are allowed, while the Detailed Action of the Office Action indicated that the Office Action is a Final Office Action and claims 1-13 and 30-33 are rejected. Hence, the Applicants, via their attorney of record, made a telephone call to the Examiner on May 31, 2007 and left a message regarding the issue. The Examiner returned the telephone call to the attorney of record on June 1, 2007 and informed the attorney of record that the Office Action is a non-final Office Action.

Amendments

As can be seen from above, the specification and claim 1 have been amended, and claims 14-29 and 33 have been canceled (claim 34 was canceled in a previous response). The claims remaining in this application are thus 1-13 and 30-32.

The amendments to the specification were made to provide a patent number for a patent application reference, which is incorporated by reference into the instant application, that has issued as a patent.

Independent claim 1 has been amended to correct clerical errors, and to add the limitation that the microfibers have aspect ratios of from about 10:1 to about 500:1, volume average lengths of about 0.1 to about 100 microns (from claim 33), and an average surface area ranging from 25 to 500 square meters per gram (from claim 33). Support for this amendment can be found, for example, from the paragraph bridging pages 3-4 of the specification.

Claim 33 has thus been incorporated into claim 1 and canceled.

Claims 14-29, directed to the Group II claims of the restriction requirement entered in the Office Action dated 15 February 2005, have been canceled in order to move the prosecution of this application forward.

In view of the above support, the Applicants submit that no "new matter" has been added to this application by the above amendments, and respectfully request that such amendments be entered into the present record for examination of this application.

Application No.: 10/809,470
Docket No.: AD7006 US NA

Page 7

The Applicants would note that all of the amendments to this application are made without prejudice of any sort, for example, to pursue the canceled claims/subject matter, or any other currently unclaimed subject matter in this application, in one or more continuing/divisional applications.

Claim Rejections

In the aforementioned Office Action, the claims of this application were rejected on various grounds.

The Applicants submit that the following rejections have been rendered moot by virtue of the amendment to claim 1 (and all claim dependent thereon):

- (1) Claims 1-8, 11, 13, 30 and 31 under 35 U.S.C. § 102(a or e) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over, WO02/0837794 (hereinafter the "Philippoz et al. reference");
- (2) Claims 1-5, 7, 8 and 30-32 under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over, US6068922 (hereinafter the "Vercesi et al. reference");
- (3) Claims 9 and 10 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Vercesi et al. reference; and
- (4) Claim 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Philippoz et al. reference.

Without going to the basis of any of these rejection, the Applicants would note that claim 33 was not part of the rejections, and all of the remaining claims now include the limitations of claim 33. As such, the Applicants submit that these rejections have been rendered moot, and respectfully request withdrawal of the same.

The remaining rejection is of claim 33 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Philippoz et al. reference. In view of the amendment to claim 1, the Applicants will apply this rejection, and respectfully traverse it, with respect to remaining claims 1-13 and 30-32.

Admittedly, Philippoz et al discloses a number of components and parameters, some open-ended, that could be manipulated in various manner to almost arrive at the presently claimed composition invention. The mere fact that the disclosure of Philippoz et al could be manipulated/modified does not make the manipulation/modification obvious. Instead, one must look to the fair teaching of the reference to do a proper obviousness assessment.

Application No.: 10/809,470
Docket No.: AD7006 US NA

Page 8

Philippoz et al is related to the addition of "short" aramid fibers to various thermoplastic polymers, including thermoplastic polyester, to improve the melt strength of such thermoplastic polymers particularly in blow molding application.

One (but not the only) difference between the fair disclosure of Philippoz et al as compared to the invention of claim 1 is the use of "short" aramid fibers (in Philippoz et al) versus microfibers (as defined in claim 1). While the lower endpoint of the broadest fiber length distribution disclosed in Philippoz et al (0.1 mm) touches the highest endpoint of the present claims (100 microns), it should be noted that Philippoz et al actually prefers fiber length distributions greater than 0.7 mm (700 microns). Taking this into account along with a comparison of the other parameters specified in the claims (versus what is fairly disclosed in Philippoz et al), it is evident that the present invention and Philippoz et al are utilizing different physical fiber forms.

In this context, the Applicants would like to address the Examiner's points relating to the open-ended disclosures of Philippoz et al. For example, Philippoz et al does disclose that the "short" aramid fibers preferably have a surface area of greater than or equal 6 m²/g, while the present claims require at least 25 m²/g surface area. While for scope purposes the disclosure of Philippoz et al includes higher surface areas, for obviousness (patentability) purposes this does not mean that Philippoz et al fairly discloses the use of significantly higher than 6 m²/g surface areas, particularly when all the other parameters are taken into consideration.

The Applicants thus submit, in view of the fair disclosure of Philippoz et al **standing alone**, that the Examiner has not established a *prima facie* case of obviousness, because Philippoz et al does not fairly disclose or suggest the use of microfibers in the context of the present claims.

In fact, the only possible way to arrive at the presently claimed invention from the fair disclosure of Philippoz et al, or the present record as a whole, is with hindsight benefit of the Applicants' disclosure and claims. Hindsight, however, is an inappropriate perspective in which to judge patentability.

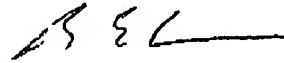
In view of the amendments and arguments presented above, the Applicants submit that pending claims 1-13 and 30-32 are patentable over the art of record, and that this case is otherwise in condition for allowance.

Application No.: 10/809,470
Docket No.: AD7006 US NA

Page 9

Should the Examiner wish to discuss any issues involved in this application, the Examiner is respectfully invited to contact the undersigned at the telephone exchange set forth below. Should there be any fee due in connection with the filing of this Amendment, please charge such fee to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company).

Respectfully submitted,



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Dated: June 13, 2007